

## Chapter 18.742 HOME OCCUPATIONS

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### **18.742.010 Purpose**

A. Purposes. It is the purpose of this chapter to:

1. Permit residents an opportunity to use their homes to engage in small-scale business ventures which could not be sustained if it were necessary to lease commercial quarters, or because the nature of the activity would make it impractical to expand to a full-scale enterprise; and
2. Establish approval criteria and standards to ensure that home occupations are conducted as lawful uses which are subordinate to the residential use of the property and are conducted in a manner that is not detrimental or disruptive in terms of appearance or operation to neighboring properties and residents.

### **18.742.020 Applicability and Exemptions**

A. Compliance with this chapter. No person shall carry on a home occupation, or permit such use to occur on property which that person owns or is in lawful control of, contrary to the provisions of this chapter.

B. Exemptions. Exemptions from the provisions of this chapter are:

1. Garage sales;
2. For-profit production of produce or other food products grown on the premises. This may include temporary or seasonal sale of produce or other food products grown on the premises. Farming activities shall be consistent with the definition of agriculture/horticulture contained in Chapter 18.130, Use Classifications;
3. Hobbies which do not result in payment to those engaged in such activity;
4. Proven nonconforming home occupations as per Section 18.742.030.

#### **18.742.030 Nonconforming Uses**

- A. Nonconforming home occupations. On-going home occupations may be granted nonconforming status provided that they were:
1. Permitted under County authority prior to annexation to the City and have been in continuous operation since initial approval;
  2. Permitted under City authority prior to 1983 and have since been in continuous operation.
- B. Governing regulations. Nonconforming home occupations will be regulated as a nonconforming situation, per the following:
1. A nonconforming situation is further governed by Chapter 18.760, Nonconforming Situations. Such use may continue until the use is expanded or altered so as to increase the level of non-compliance with this title;
  2. The burden of proving a home occupation's nonconforming status rests with the property owner or tenant.
- C. Violations. Home occupations without City or County approval which cannot prove nonconforming status shall be considered in violation of this chapter and shall cease until the appropriate approvals have been granted.

#### **18.742.040 General Approval Criteria and Standards**

- A. General criteria. All home occupations except those that have proven nonconforming status shall observe the following criteria in addition to the standards established for Type I and Type II Uses described in Section 18.742.050 of this chapter.
1. Home occupations may be undertaken only by the principal occupant(s) of a residential property;
  2. There shall be no more than three deliveries per week to the residence by suppliers;
  3. There shall be no offensive noise, vibration, smoke, dust, odors, heat or glare noticeable at or beyond the property line resulting from the operation. Home occupations shall observe the provisions of Chapter 18.725, Environmental Performance Standards;
  4. The home occupation shall be operated entirely within the dwelling unit and a conforming accessory structure. The total area which may be used in the accessory building for either material product storage and/or the business activity shall not exceed 528 square feet. Otherwise, the home occupation and associated storage of materials and products shall not occupy more than 25% of the combined residence and accessory structure gross floor area, but in no case shall the portion of the home occupation occupying the accessory use exceed 528 feet. The indoor storage of materials or products shall not exceed the limitations imposed by the provisions of the building, fire, health and housing codes;

5. A home occupation shall not make necessary a change in the Uniform Building Code use classification of a dwelling unit. Any accessory building that is used must meet Uniform Building Code requirements;
6. More than one business activity constituting two or more home occupations shall be allowed on one property only if the combined floor space of the business activities does not exceed the limitation of space imposed in Section 4 above. Each home occupation shall apply for a separate home occupation permit, if required as per this chapter, and each shall also have separate Business Tax Certificates;
7. There shall be no storage and/or distribution of toxic or flammable materials, and spray painting or spray finishing operations that involve toxic or flammable materials which in the judgment of the Fire Marshal pose a dangerous risk to the residence, its occupants, and/or surrounding properties. Those individuals which are engaged in home occupations shall make available to the Fire Marshal for review the Material Safety Data Sheets which pertain to all potentially toxic and/or flammable materials associated with the use.
8. No home occupation shall require any on or off-street parking other than that normally required for a residence;
9. The following uses are not allowed as home occupations:
  - a. Auto-body repair and painting;
  - b. On-going mechanical repair conducted outside of an entirely-enclosed building;
  - c. Junk and salvage operations;
  - d. Storage and/or sale of fireworks.
10. There shall be no exterior storage of vehicles of any kind used for the business except that one commercially licensed vehicle of not more than three-quarters ton gross vehicle weight (GVW) may be parked outside of a structure or screened area.

#### **18.742.050      Type I and Type II Home Occupations Defined**

- A. Type I and II home occupations defined. Home occupations shall be administered as either Type I or Type II uses. A separate home occupation permit and/or fee is required for each property on which a Type II home occupation is undertaken. In addition to the general criteria outlined in Section 18.742.040, home occupations shall observe the following additional standards:
1. Type I Home Occupations: The following characteristics of a Type I home occupation shall be prohibited:
    - a. Outside volunteers or employees to be engaged in the business activity other than the persons principally residing on the premises;
    - b. Exterior signs which identifies the property as a business location;

- c. Clients or customers to visit the premises for any reason;
  - d. Exterior storage of materials.
2. Type II Home Occupations: Property on which a Type II home occupation is located may show evidence that a business is being conducted from the premises. Therefore the following is allowed for Type II home occupations:
- a. One non-illuminated sign, not exceeding 1.5 square feet, which shall be attached to the residence or accessory structure or placed in a window;
  - b. No more than one outside volunteer or employee who is not a principal resident of the premises;
  - c. No more than six daily customers or clients. Customers and clients may not visit the business between the hours of 10:00 PM and 8:00 AM and shall not generate excessive traffic or monopolize on-street parking;
  - d. Storage of materials, goods, and equipment which is screened entirely from view by a solid fence. Storage shall not exceed five percent of the total lot area and shall not occur within the front yard or the required side yard setback.

#### **18.742.060 Permit Procedures for Type I and Type II Home Occupations**

- A. Type I home occupation permit. A Type I home occupation permit will be processed by means of a Type I procedure, as governed by Section 18.390.030, after a demonstration that the proposal complies with all development criteria in Sections 18.742.040A and 18.742.050 A1.
- B. Type II home occupation permit. A Type II home occupation permit will be processed by means of a Type II procedure, as governed by Section 18.390.040, after a demonstration that the proposal complies with all development criteria in Sections 18.742.040A and 18.742.050 A2. and subject to the following approval criteria:
  - 1. Is in conformance with the standards contained in this chapter; and
  - 2. Will be subordinate to the residential use of the property; and
  - 3. Is undertaken in a manner that is not detrimental nor disruptive in terms of appearance or operation to neighboring properties and residents.
- C. Conditions of approval. The Director may impose conditions upon the approval of a Type II home occupation permit to ensure compliance with the requirements of this chapter. These conditions may include, but are not limited to, the following:
  - 1. Further limiting the hours, days, place and manner of operation;
  - 2. Requiring site and building design features which minimize environmental impacts such as noise, vibration, air pollution, glare, odor and dust;
  - 3. Requiring additional building setbacks, and increased lot area, depth or width;

4. Further limiting the building area and outdoor storage used by the home occupation and restricting the location of the use on the site in relationship to adjoining uses;
5. Designating the size, number, location and design of vehicle access points;
6. Requiring street right-of-way to be free at all times of vehicles associated with the home occupation;
7. Requiring landscaping, buffering and/or screening, of the home occupation from adjoining uses and establishing standards for the continued maintenance of these improvements;
8. Requiring storm drainage improvements, and surfacing of parking and loading areas;
9. Limiting the extent and type of interior or exterior building remodeling necessary to accommodate the home occupation;
10. Limiting or setting standards for the location and intensity of outdoor lighting;
11. Requiring and designating the size, height and location of fences and materials used for their construction;
12. Requiring the protection and preservation of existing trees, and other vegetation, watercourses, slopes, wildlife habitat areas and drainage areas;
13. Limiting the type and number of vehicles or equipment to be parked or stored on the site; and
14. Any other limitations which the Director considers to be necessary or desirable to make the use comply with the purposes stated in Sections 18.745.040 and 18.742.050.

#### **18.742.070      Revocation and Expiration of Home Occupation Permits**

A. Grounds for revocation. The Director may:

1. Revoke a home occupation approval if the conditions of approval have not been or are not being complied with and the home occupation is otherwise being conducted in a manner contrary to this chapter.
2. The Director shall approve the use as it exists, revoke the home occupation permit, or compel measures to be taken to ensure compatibility with the neighborhood and conformance with this chapter after reviewing a complaint. Complaints may be originated by the City of Tigard or the public. Complaints from the public shall clearly state the objection to the home occupation, such as:
  - a. Generation of excessive traffic;
  - b. Exclusive use of on-street parking spaces;
  - c. Other offensive activities not compatible with a residential neighborhood.

- B. Cessation of home occupation pending review. If it is determined by the Director in exercise of reasonable discretion, that the home occupation in question will affect public health and safety, the use may be ordered to cease pending Hearings Officer review and/or exhaustion of all appeals.
- C. Waiting period for re-application. When a home occupation permit has been revoked due to violation of these standards, a minimum period of one year shall elapse before another application for a home occupation on the subject parcel will be considered.
- D. Invalidation of permit. A home occupation permit shall become invalid if the applicant moves his or her residence.

**18.742.080 Business Tax Certificate Required**

- A. Granting of business tax certificate. No business tax certificate will be issued for a home occupation until:
  - 1. The person wishing to engage in a Type I home occupation pays the one-time review fee and agrees to comply with the provisions of this chapter; or
  - 2. The applicant for a Type II home occupation has been approved and the application certifies that the home occupation will be operated in strict compliance with the provisions of this chapter and the conditions of approval. ■